

**CUSTOMER NO.: 24498**

**Serial No. 09/869,397**

Reply to Office Action dated: 9/21/05

Response dated: 11/08/05

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**PATENT**

**PF980092**

**REMARKS**

In the Office Action, the Examiner noted that claims 1-8 are pending in the application and that claims 1-8 stand rejected. By this response, all claims continue unamended.

In view of the following discussion, the Applicant respectfully submits that none of the claims are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Thus the Applicant believes that all of these claims and the application are now in allowable form.

**Rejections**

**A. 35 U.S.C. § 102**

The Examiner rejected claims 1-4, 6 and 7 under 35 U.S.C. § 102(e) as being anticipated by Thomason (U.S. Patent No. 6,018,612). The rejection is respectfully traversed.

Regarding claim 1, the Examiner alleges that Thomason discloses a process for recording a digital video and audio data stream wherein recording being carried out on a medium organized in the form of logic blocks in series and comprising a recording and reading head including all of the aspects of the Applicant's invention. The Applicant respectfully disagrees.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)). (emphasis added). The Applicant respectfully submits that Thomason fails to teach each and every element of at least the Applicant's claim 1, which specifically recites:

"A process for recording a digital video and audio data stream wherein recording being carried out on a medium organized in the form of logic blocks in series and comprising a recording and reading head, said process comprises the steps of:

recording data in one block out of two starting from a first block, following the triggering of the reading of the data, alternately reading

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a previously recorded block and continuing the recording in the block following the block read.

The Applicant's claim 1 finds support throughout the specification. More specifically, Claim 1 is directed to a process for recording a digital video and audio data stream wherein recording being carried out on a medium (hard disk 201 on page 5, line 23) organized in the form of logic blocks in series and comprising a recording and reading head, the process including the steps of recording data in one block out of two starting from a first block (see figure 9a, page 18 lines 10-13) and following the triggering of the reading of the data, alternately reading a previously recorded block and continuing the recording in the block following the block read (see page 18 lines 14-21).

In contrast to the invention of the Applicant, at least as claimed by the Applicant's independent claim 1, Thomason describes a process for recording a digital video and audio data stream wherein recording is carried out on a medium (hard disk 36), organized in the form of logic blocks in series and comprising a recording and reading head (column 4 line 36), the process comprising the steps of storing first in a buffer memory (35) the data before transferring them to the main memory (36) and also, when reading data on the main memory (36), data is initially sent to the buffer memory (35). The invention proposes a useful arrangement of the buffer memory in order to make the data transfers with the main memory using an efficient manner. However, the arrangement is dedicated to the management of the buffer memories and not to the arrangement of the main memory.

Firstly, in Thomason the blocks are not arranged in logic blocks in buffers. Secondly, Thomason fails to teach, suggest or make obvious that the buffer is arranged by recording one address out of two starting from a first address, as claimed by at least the Applicant's independent claim 1. The Examiner cites col. 4 lines 47-51, col. 5 lines 7-26 and FIG. 3 in Thomason for anticipating the Applicant's claim 1, however, these passages are not relevant as they only disclose that the data is transferred from the buffer to the disk when the disk is capable of receiving the data. Col 5 lines 7-26 of Thomason also only discloses normal buffer management and not buffer management as taught in the

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Applicant's Specification and claimed by at least the Applicant's independent claim

1. Even further, Thomason fails to teach, suggest or anticipate "following the triggering of the reading of the data, alternately reading a previously recorded block and continuing the recording in the block following the block read" as taught in the Applicant's Specification and claimed by at least the Applicant's claim 1. Instead, Thomason merely teaches the reading of data in the main memory and this reading is just reading the data when the disk is ready. Thomason further teaches supplying the buffer memory before sending them to a TV screen.

As such and for at least the reasons described above and specifically because Thomason fails to teach, suggest or anticipate at least "recording data in one block out of two starting from a first block" and "following the triggering of the reading of the data, alternately reading a previously recorded block and continuing the recording in the block following the block read" as taught in the Applicant's Specification and claimed by at least the Applicant's claim 1, the Applicant respectfully submits that Thomason fails to teach, suggest or disclose at least each and every element of the Applicant's claimed invention, arranged as in at least the Applicant's claim 1 as required for anticipation. Therefore, the Applicant respectfully submits that the teachings and disclosure of Thomason do not anticipate the Applicant's invention, at least with respect to independent claim 1.

Therefore, the Applicant submits that for at least the reasons recited above, independent claim 1 is not anticipated by the teachings of Thomason and, as such, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Likewise, independent claim 7 recites similar relevant features as recited in the Applicant's independent claim 1. More specifically, claim 7 recites "an interfacing circuit for interfacing the recording medium with said control circuit, said control circuit initially instructing the recording of data in one block out of two starting from a first block and subsequently, following the triggering of the reading of the data, alternately the reading of a block previously recorded and the continuing of the recording in the block following a block read". As described above, there is absolutely no teaching, suggestion or disclosure in Thomason for at least "recording data in one block out of two starting from a first block" and "following the triggering of the reading of the data, alternately reading a previously

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recorded block and continuing the recording in the block following the block read" as claimed by the Applicant's independent claims 1 and 7. As such, the Applicant respectfully submits that for at least the reasons recited above independent claim 7 is also not anticipated by the teachings of Thomason and also fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Furthermore, dependent claims 2-4 and 6 depend directly from independent claim 1 and recite additional features therefor. As such and for at least the reasons set forth herein, the Applicant submits that dependent claims 2-4 and 6 are also not anticipated by the teachings of Thomason. Therefore the Applicant submits that dependent claims 2-4 and 6 also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

#### **B. 35 U.S.C. § 103**

The Examiner rejected claims 5 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Thomason in view of Mishara (U.S. Patent No. 6,304,927). The rejection is respectfully traversed.

The Examiner applied Thomason for the rejection of claims 5 and 8 as applied above for the rejection of claims 1-4, 6 and 7. As described above, Thomason absolutely fails to teach, suggest or anticipate at least the Applicant's independent claims 1 and 7. As such, and at least because Thomason fails to teach, suggest or anticipate the Applicant's independent claims 1 and 7, the Applicant further submits that Thomason also fails to teach, suggest or anticipate the Applicant's claims 5 and 8, which depend directly from the Applicant's claims 1 and 7, respectively.

Furthermore, the Applicant submits that Mishara also fails to teach, suggest or render obvious at least "recording data in one block out of two starting from a first block" and "following the triggering of the reading of the data, alternately reading a previously recorded block and continuing the recording in the block following the block read" as taught in the Applicant's Specification and claimed by

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at least the Applicant's independent claims 1 and 7. That is, the teachings of Mashira for a digital copier or multi-function device with a scalable architecture fails to teach, suggest or render obvious at least "recording data in one block out of two starting from a first block" and "following the triggering of the reading of the data, alternately reading a previously recorded block and continuing the recording in the block following the block read" as taught in the Applicant's Specification and claimed by at least the Applicant's independent claims 1 and 7.

As such, the Applicant submits that at least because Mashira fails to teach, suggest or render obvious at least the Applicant's independent claims 1 and 7, the Applicant further respectfully submits that Mashira also fails to teach, suggest or render obvious the Applicant's claims 5 and 8, which depend directly from the Applicant's independent claims 1 and 7, respectively.

Furthermore, the Applicant submits that there is absolutely no motivation or suggestion in either reference for the combination of Thomason and Mashira to attempt to teach the invention of the Applicant. More specifically, there is no motivation or suggestion in the invention of Mashira for the combination of the references and likewise, the invention of Thomason does not expressly or impliedly motivate or suggest such a combination as required by for the combination of references under 35 U.S.C. § 103.

That is, for prior art reference to be combined to render obvious a subsequent invention under 35 U.S.C. § 103, there must be something in the prior art as a whole which suggests the desirability, and thus the obviousness, of making the combination. Uniroyal v. Rudkin-Wiley, 5 U.S.P.SQ.2d 1434, 1438 (Fed. Cir. 1988). The teachings of the references can be combined only if there is some suggestion or incentive in the prior art to do so. In re Fine, 5 U.S.P.SQ.2d 1596, 1599 (Fed. Cir. 1988). ***Hindsight is strictly forbidden. It is impermissible to use the claims as a framework to pick and choose among individual references to recreate the claimed invention*** Id. at 1600; W.L. Gore Associates, Inc. v. Garlock, Inc., 220 U.S.P.Q. 303, 312 (Fed. Cir. 1983). (emphasis added).

Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious

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unless the prior art suggested the desirability of the modification. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Even further, the Applicant submits that even if there was a motivation to combine the references (which the Applicant maintains that no such motivation exists), the teachings of Mashira fail to bridge the substantial gap between the teachings of Thomason and the Applicant's invention at least with respect to independent claims 1 and 7.

As such and for at least the reasons recited above, the Applicant respectfully submits that the teachings of Thomason and Mashira, alone or in any allowable combination, fail to teach, suggest or make obvious the invention of the Applicant with regard to at least the Applicant's independent claims 1 and 7. As such, the Applicant further submits that the teachings of Thomason and Mashira, alone or in any allowable combination, also fail to teach, suggest or make obvious the invention of the Applicant with regard to dependent claims 5 and 8, which depend directly from the Applicant's independent claims 1 and 7, respectively, and recite further limitations thereof.

Therefore, the Applicant submits that for at least the reasons recited above, the Applicant's claims 5 and 8 are not rendered obvious by the teachings of Thomason and Mashira, alone or in any allowable combination and, as such, fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

#### Conclusion

The Applicant respectfully submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103. Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, or if the Examiner believes a telephone interview would expedite the prosecution of

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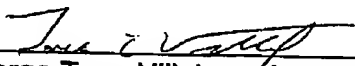
the subject application to completion, it is respectfully requested that the Examiner telephone the undersigned.

No fee is believed due. However, if a fee is due, please charge the additional fee to Deposit Account No. 07-0832.

Respectfully submitted,

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